

**ORDINANCE NO. 61-082022**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN RIDGE, TEXAS, ESTABLISHING THE DROUGHT MANAGEMENT PLAN FOR THE CITY OF GARDEN RIDGE; ESTABLISHING TRIGGER POINTS AND DEMAND REDUCTION MEASURES; PROVIDING A VARIANCE PROCEDURE; PROVIDING A PENALTY FOR VIOLATIONS OF THIS ORDINANCE; PROVIDING A CUMULATIVE AND SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY; AND DECLARING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Garden Ridge is a Type A, General Law Municipality located in Comal County, Texas; and

**WHEREAS**, the Edwards Aquifer Authority is a regional authority managing water pumped out of the Edwards Aquifer by the City of Garden Ridge and has set standards for the Emergency Water Use Reduction Program in the region; and

**WHEREAS**, the City of Garden Ridge uses both water from the Edwards Aquifer and from the Trinity Aquifer to provide water to residents of the City of Garden Ridge as well as persons residing within the Certificate of Convenience and Necessity (CCN) of the City of Garden Ridge; and

**WHEREAS**, the Trinity Aquifer is currently an unregulated water source; and

**WHEREAS**, the level of the Trinity well affects the ability of the city to provide unrestricted water sources; and

**WHEREAS**, pursuant to Chapter 54 of the Local Government Code, the City is authorized to adopt such ordinances necessary to preserve and conserve its water resources; and

**WHEREAS**, the City Council finds that the proposed revisions promote the health, safety and welfare of the City and Ordinance No. 61 is amended as contained herein.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GARDEN RIDGE, TEXAS, THAT:**

**SECTION 1. FINDINGS.**

The findings set out herein are found to be true and correct and are hereby adopted by the City Council and made a part of this Ordinance for all purposes.

**SECTION 2. DEFINITIONS.**

The following words and terms, when used in this plan, shall have the following meanings unless the context clearly indicates otherwise:

*Act* is the Act creating the Edwards Aquifer Authority, namely the Edwards Aquifer Authority Act of May 30, 1993, 73<sup>rd</sup> Leg.R.S. Ch. 626, 1993 Texas General Laws 2353, as amended.

*Aesthetic Use* is the use of water for fountains, waterfalls, and landscape lakes and ponds where such use is entirely ornamental and serves no other functional purpose.

*Agricultural Irrigation* means irrigation for the purpose of growing crops commercially for human consumption or to use as feed for livestock or poultry.

*Bucket* means a bucket or other container holding five gallons or less, used singly by one person.

*Connection* is a metered or unmetered delivery point to a customer or other receiver of water from an organized water distribution system.

*Conservations* are those practices, techniques, and technologies that will reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water, or increase the recycling and reuse of water so that a water supply is made available for future or alternative uses.

*Demand Reduction Measure* is a specific action to be taken by defined categories of users to reduce the pump age demand on the Edwards Aquifer during a drought.

*Domestic Type Use* is the use of water, other than uses in the outdoor category, for personal needs or for household purposes, such as drinking, bathing, heating, cooking, sanitation or cleaning, whether the use occurs in a residence or in a commercial or industrial facility.

*Drought* is a period of shortage of precipitation of seasonal or longer duration.

*Edwards Aquifer* means that portion of an arcuate belt of porous, water-bearing limestones composed of the Edwards Group Limestone and Associated Formations trending from west to east to northeast through Kinney, Uvalde, Medina, Bexar, Comal and Hays Counties.

*Hand-Held Hose* is a hose physically held by one person, fitted with a manual or automatic shutoff nozzle.

*Healthcare Facility* is any hospital, clinic, nursing home or other healthcare or medical research facility.

*Impervious Surface Area* is any structure, or any street, driveway, sidewalk, patio, or other surface area covered with brick, paving, tile or other impervious material.

*Industrial Use* is the use of water integral to the production of primary goods and services provided by industrial or commercial facilities, Industrial facilities include facilities which perform such process-specific activities as cooling, boiler feed, cleaning and washing, pollution control, extraction and separation of desirable material from products and waste materials and the incorporation of water into final products, Commercial facilities include, but are not limited to, food service facilities, hotels, retail facilities and nursery operations.

*Industrial User* is an industrial or commercial water user whose use of water is integral to the production of primary goods and services provided by industrial or commercial facilities.

*Industrial Well User* is an industrial user who owns one or more wells that produce water used for industrial or commercial facilities.

*Irrigator* is a well owner who uses water to irrigate land for growing commercial crops.

*Landscape Watering* means the application of water to grow landscaping plants.

*Landscape Plant* is any member of the plant kingdom, including any tree, shrub, vine, herb, flower, succulent, groundcover or grass species that grows or has been planted out-of-doors and is used for landscaping purposes or for the support of intensive recreational areas such as playgrounds and playing fields.

*Livestock* is cattle, sheep, goats, hogs, poultry, horses and game, domestic, exotic and other animals and birds, including zoo animals, used for commercial or personal purposes.

*Livestock Use* is the use of water for drinking by or washing of livestock.

*MSL* is mean sea level.

*Municipality* is a city or other governmental unit with the authority to make and enforce ordinances.

*Order* is a written order of the City Council or Mayor of the City of Garden Ridge, Texas.

*Other Outside Use* means the use of water outdoors for the maintenance, cleaning and washing of structures and mobile equipment, including automobiles and boats, the washing of streets, driveways, sidewalks, patios and other similar areas.

*Person* means any individual, firm, entity, corporation, municipal corporation, governmental or proprietary body, including the United States or the State of Texas, or association of persons.

*Reduction Goal* means the amount of reduction in pumpage volume, expressed in a percentage from baseline pumpage volume for each drought stage.

*Reuse* is the use by any user of Edwards Aquifer water that has been recycled or reclaimed for any beneficial purpose, after such water has been previously used for any beneficial purpose, whether or not any treatment of such groundwater may be required in connection with such recycling or reclamation.

*Stage* means one of the five designated drought stages, which may be declared by the City or the Edwards Aquifer Authority.

*Supplier* is any person who supplies water to customers for residential, commercial, industrial, military or other uses, including a public or private water company, water supply corporation, municipality and water district.

*Trigger Conditions* means those specific conditions of rainfall amounts, Edwards Aquifer water level elevations, spring discharges and water quality which the Authority will monitor and use as indicators of the occurrence of drought conditions for purposes of declaring the various stages.

*Trigger Points* are special conditions experienced by the City of Garden Ridge, which authorize the city to initiate Stage 1 through 5 of the City of Garden Ridge Drought Management Plan.

*Trinity Aquifer Well* is a source of water for the City of Garden Ridge which is located in the Cow-Creek formation of the Trinity Aquifer.

*Use for a Beneficial Purpose* means water which is used, without regard to priority, for:

- a) agricultural, commercial, domestic, gardening, industrial, manufacturing, mining, municipal, pleasure, recreational, or stock raising purposes; or

- b) exploring for, producing, handling, or treating oil, gas, sulfur, or other materials; or
- c) any other purpose that is useful and beneficial to the user.

*User* is a person, public or private, who produces, distributes, or uses water from an Edwards Aquifer well or from the Trinity Aquifer well.

*Variance* is an authorized exception from compliance by the user with any provision of the Rules granted by this Ordinance.

*Waste* is:

- a) The flowing or producing of groundwater from wells in the Edwards Aquifer or Trinity Aquifer if the water flowing or produced is not used for a beneficial purpose by any user,
- b) The unreasonable loss of groundwater through faulty design or negligent operation of a well or water delivery or application system; or
- c) Using quantities of groundwater for a purpose that otherwise would be considered beneficial in excess of quantities reasonably necessary for that purpose.

*Water Utility Use* is water used for withdrawal, treatment, transmission, and distribution by potable water systems.

**SECTION 3. DEMAND REDUCTION MEASURES.**

The demand reduction measures for all water uses for Stages 1, 2, 3, 4, and 5 are set out in Appendix A. For clarification, certain permitted and exempt water uses are listed. Listed below are the trigger points for the various stages of the Drought Management Plan.

<b>Reduction Stage</b>	<b>J-17 Well Level</b>
1	660' (10 day rolling average)
2	650' (10 day rolling average)
3	640' (10 day rolling average)
4	630' (10 day rolling average)
5	625' (10 day rolling average)

**SECTION 4. EMERGENCY WATER USE REDUCTION.**

- a) **Declaration of Emergency Stages:** The Mayor of Garden Ridge is authorized to order, by proclamation, implementation of provisions of Stages 1 through 5 of the City of Garden Ridge Drought Management Plan when the appropriate trigger points as established in this Ordinance are met.

The City of Garden Ridge shall determine when conditions warrant implementation of the Emergency Water Use Reduction Program. The program is implemented when any one of the below Trigger Points is reached. The City of Garden Ridge may advance stages, as needed to effect compliance with pumping limit goals. The various stages may be declared as shown in Appendix A.

**b) Trigger Points:**

1. Declaration of Stages 1 through 5 by the Edwards Aquifer Authority and/or at the discretion of the Mayor, City of Garden Ridge, based upon consideration of water supplies, pumping trends, seasonal adjustments, current and forecast precipitation, and other relevant factors impacting the City's water supply.
2. The level of the Edwards Aquifer Authority Test Well J-17 reaches a level of Stages 1 through 5 Emergency Water Use Reduction as defined by Edwards Aquifer Authority.
3. When the pumping ability of the Trinity Aquifer well drops to 600 GPM or Draw down level of the well reaches seventy-five (75) feet above the transponder.
4. When the City's pumping capacity is reduced by infrastructure damage or equipment failure.

**c) Public Issuance of Drought Stage Declaration:** The Declaration of a critical use stage will be publicly issued by the City of Garden Ridge. Such declaration shall be placed on the City sign, distributed through the Garden Ridge Emergency Alert System, posted on the City's website, posted on the City's social media pages, and/or published in the official City newspaper.

**d) Restricting the Use of Water:**

1. Upon declaration of a critical use stage by the City of Garden Ridge, compliance with the Emergency Water Use Reduction Program demand reduction measures shall be required and compliance with the voluntary measures shall be encouraged.
2. Demand reduction measures are attached as Appendix A and are herein incorporated for all purposes.
3. Upon declaration of a critical use stage by the City of Garden Ridge, the sale of water to a temporary user for use outside the City shall be prohibited. The sale of water to a temporary user for use within the City shall be at the discretion of the Public Works Director.

**e) Water Rate Surcharges:**

1. Critical Period Surcharges will be implemented in accordance with the following schedule:
  - i. Stage 3: Customers will be charged the current water rate plus a 100% surcharge for use over 40,000 gallons.
  - ii. Stage 4: Customers will be charged the current water rate plus a 200% surcharge for use over 40,000 gallons.
  - iii. Stage 5: Customers will be charged the current water rate plus a 200% surcharge for use over 40,000 gallons.
2. Water rate surcharges will remain in effect only so long as the City is in Stages 3, 4, or 5 of the Drought Management Plan.
3. Water rate surcharges shall coincide with the normal billing cycle of the Garden Ridge Water Department. Surcharges shall be applied to the next billing cycle following the implementation of Stages 3, 4, or 5.
4. Surcharge revenues shall be deposited in the Water Fund and such revenue is to be used for Water Company Operations.

**f) End of Emergency Use Restrictions:**

1. Trinity Aquifer: The program and/or each stage may be terminated or changed at the discretion of the Mayor, City of Garden Ridge, after the trigger condition of a stage has been exceeded and after considering the 10 day rolling average of the appropriate index well level, pumping trends, current precipitation, and the outlook for additional precipitation.
2. Edwards Aquifer: The program and/or each stage may be terminated or changed upon declaration of the Edwards Aquifer Authority (EAA) and/or at the discretion of the Mayor, City of Garden Ridge.

**SECTION 5. PENALTIES.**

- a) A person who knowingly or intentionally violates the provisions of this Ordinance shall be deemed guilty of a misdemeanor offense and upon conviction be punished by a fine of not less than ten dollars (\$10.00) and not more than two thousand dollars (\$2,000). Each day's violation constitutes a separate offense. Compliance may also be sought through injunctive relief in the District Court.
- b) No violation, definition, or penalty under this section shall have bearing on any violation, definition, or penalty under any other section of this Ordinance.

**SECTION 6. ENFORCEMENT.**

- a) **Applicable to Resident and Non-Resident Customers:** The enforcement provisions of this Ordinance shall apply to all persons, customers, and property utilizing water purchased from and provided by the City. For purposes of this Ordinance, it shall be presumed that any person, corporation, or association in whose name a water meter connection is registered with the City of Garden Ridge Water Company, has knowingly made, caused, used, or permitted to use the water received from the City and that use of said water in a manner contrary to the provisions of Ordinance No. 61, or in an amount in excess of the use permitted by the conservation stage in effect, is considered a violation of Ordinance No. 61 by that resident person, non-resident person, corporation, or association. Proof that the particular premises have a water meter connection registered in the name of the defendant named in a complaint issued under the auspices of Ordinance No. 61 shall constitute in evidence a prima facie presumption that the person in whose name such water connection was registered was the person who permitted the illegal use of water to occur on the premises.

**SECTION 7. VARIANCES.**

- a) **Request For Variance:** A person may file a written request for a variance from these rules with the City of Garden Ridge. The request must contain the following information:
  1. The specific nature of the variance requested; and
  2. A detailed explanation of why the person believes they should be granted the variance, including any supporting documentation; and
  3. A signed statement that the facts contained in the request are true and within the person's personal knowledge.
- b) **Additional Information:** The City of Garden Ridge may request the variance requester to provide additional information, which must be filed within ten (10) calendar days of the request or as otherwise directed in the request.

- c) **When Variance May Be Granted:** A variance may be granted only when the variance is not contrary to the public interest and is in harmony with the general purpose and intent of this Ordinance so that the public health, safety, and welfare may be secured and that substantial justice may be done. The Water Commission shall recommend to City Council a variance from these regulations when, due to special conditions, an undue hardship will result from requiring compliance. The City Council is the final authority on variances. The variance, if granted, would be the minimum necessary relief required to alleviate the undue hardship, with the following considerations:
1. That the requested variance does not violate the intent of the drought regulations; and
  2. That the relief sought will not cause significant harm to any other person or group of persons or result in the City of Garden Ridge being in violation of regulatory requirements; and
  3. That the granting of a variance will be in harmony with the spirit and purpose of these regulations; and
  4. That the hardship is in no way the result of the applicant's own actions.
- d) **Terms and Conditions of the Variance:**
1. The City Council may grant a variance for such a term and in accordance with any conditions they deem appropriate.
  2. It shall be a term of every variance granted by the City Council that the variance may be rescinded based on changed circumstances, new information, or failure of the holder of the variance to abide by the terms and conditions of the variance or to comply with these rules or any other order or rule of the City of Garden Ridge.
  3. The City Council may require a person granted a variance to file reports with the City of Garden Ridge containing such information as the City believes relevant to monitoring the continuing appropriateness of the variance.

**SECTION 8. SEVERABILITY.**

If any section, paragraph, subdivision, clause, or phrase of this ordinance shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this ordinance as a whole or any part of any provision thereof other than the part so decided to be invalid or unconstitutional.

**SECTION 9. EFFECTIVE DATE.**

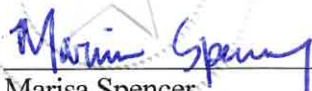
This ordinance shall take effect immediately upon its passage, approval, and publication according to law.

**PASSED AND APPROVED ON** this 29<sup>th</sup> day of August, 2022.



Robb Erickson  
Mayor

ATTEST:



Marisa Spencer  
City Secretary

**APPENDIX A**  
**DEMAND REDUCTION MEASURES**

Watering by automated irrigation systems is restricted year-round between the hours of 10 am and 8 pm.

**STAGE 1**

**Stage One Alert** begins when the Edwards Aquifer Authority Test Well J-17 level reaches **660** feet mean sea level (10 day rolling average) at the monitored well and is declared by the Edwards Aquifer Authority (EAA) and/or at the discretion of the Mayor of the City of Garden Ridge.

1. Water waste is prohibited to include, allowing water to run off onto a gutter, ditch, drain, into the street, or failing to repair a controllable leak.
2. Watering with an irrigation system or sprinkler, permitted only during the hours of 12 a.m. to 10 a.m. and 8 p.m. to 12 a.m.
3. Watering with an irrigation system or sprinkler, permitted only once a week on the designated watering day.

<b>Last Digit of Address</b>	<b>Day</b>
0	Monday
1&2	Tuesday
3&4	Wednesday
5&6	Thursday
7&8	Friday
9	Saturday

Areas without a street address such as medians, neighborhood entryways, or common areas water as if their address ended in a 2.

4. Watering with hand-held hose or drip irrigation permitted any day, any time.
5. Residential, commercial, industrial, and agricultural Edwards Aquifer water users should reduce water consumption by any means available.
6. Washing impervious cover such as parking lots, driveways, streets, or sidewalks is prohibited.
7. Non-commercial washing of vehicles and mobile equipment (e.g. washing vehicles at a residence) is permitted any day at any time over landscape or other surface where run off is minimized and with the use of a hose using an automatic shut-off nozzle or bucket of 5 gallons or less.
8. No building permits will be issued to homeowners or pool contractors for the construction of new swimming pools unless verification is provided that 100% of water for filling of pool will be brought in from a water source outside of the City.

This does not apply to non-potable water, gray water, or treated effluent.

Stage 1 restrictions continue until there is an announcement that Stage 1 has been canceled or that Stage 2 is in effect.



**STAGE 2**

**Stage Two Alert** begins when the Edwards Aquifer Authority Test Well J-17 level reaches **650** feet mean sea level (10 day rolling average) at the monitored well and is declared by the Edwards Aquifer Authority (EAA) and/or at the discretion of the Mayor of the City of Garden Ridge.

1. Water waste is prohibited to include, allowing water to run off onto a gutter, ditch, drain, into the street, or failing to repair a controllable leak.
2. Watering with an irrigation system or sprinkler, permitted only once a week on the designated watering day during the hours of 4 a.m. to 8 a.m. and 8 p.m. to 11 p.m.

<b>Last Digit of Address</b>	<b>Day</b>
0	Monday
1&2	Tuesday
3&4	Wednesday
5&6	Thursday
7&8	Friday
9	Saturday

Areas without a street address, such as medians, neighborhood entryways, or common areas water as if their address ended in a 2.

3. Watering with drip irrigation or a 5-gallon bucket permitted during the hours of 4 a.m. to 8 a.m. and 8 p.m. to 11 p.m. any day.
4. Watering with a handheld hose permitted any day, any time.
5. Residential, commercial, industrial, and agricultural Edwards Aquifer water users should reduce water consumption by any means available.
6. Washing impervious cover such as parking lots, driveways, streets, or sidewalks is prohibited.
7. Non-commercial washing of vehicles and mobile equipment (e.g. washing vehicles at a residence) is permitted any day at any time over landscape or other surface where run off is minimized and with the use of a hose using an automatic shut-off nozzle or bucket of 5 gallons or less.
8. No building permits will be issued for the construction of new swimming pools. The City Administrator may grant a variance for the construction of a swimming pool with proof that water for construction and filling of the pool will be brought in from a water source outside of the City.

This does not apply to non-potable water, gray water, or treated effluent.

Stage 2 restrictions continue until there is an announcement that Stage 2 has been canceled or that Stage 3 is in effect.

**STAGE 3**

**Stage Three Alert** begins when the Edwards Aquifer Authority Test Well J-17 level reaches **640** feet mean sea level (10 day rolling average) at the monitored well and is declared by the Edwards Aquifer Authority (EAA) and/or at the discretion of the Mayor of the City of Garden Ridge.

1. Water waste is prohibited to include, allowing water to run off onto a gutter, ditch, drain, into the street, or failing to repair a controllable leak.
2. Watering with an irrigation system, soaker hose or sprinkler is permitted every other week beginning on the second Monday after Stage 3 has been declared and only on designated watering day from 4 a.m. to 8 a.m. and 8 p.m. to 11 p.m.

A watering day calendar based upon the last digit of each address will be prepared, distributed, and posted monthly during Stage 3 watering restrictions with the following watering schedule.

<b>Last Digit of Address</b>	<b>Day</b>
0	Monday
1&2	Tuesday
3&4	Wednesday
5&6	Thursday
7&8	Friday
9	Saturday

Areas without a street address, such as medians, neighborhood entryways, or common areas water as if their address ended in a 2.

3. Watering with a drip irrigation or 5-gallon bucket permitted during the hours of 4 a.m. to 8 a.m. and 8 p.m. to 11 p.m. on Monday, Wednesday, and Friday.
4. Watering with a handheld hose permitted any day, any time.
5. Watering newly planted landscapes permitted only with a variance from City Council.
6. Washing cars at home is permitted any day at any time over landscape or other surface where run off is minimized and with the use of hose using automatic shut-off nozzle or bucket of 5 gallons or less. Water runoff from property is prohibited.
7. No person may use groundwater or City provided water for an ornamental outdoor fountain or similar feature.
8. No building permits will be issued for the construction of new swimming pools. The City Administrator may grant a variance for the construction of a swimming pool with proof that water for construction and filling of the pool will be brought in from a water source outside of the City.
9. Water customers subject to a 100% surcharge for use over 40,000 gallons.

This does not apply to non-potable water, gray water, or treated effluent.

Stage 3 restrictions continue until there is an announcement that Stage 3 has been canceled or that Stage 4 is in effect.

#### **STAGE 4**

**Stage Four Alert** begins when the Edwards Aquifer Authority Test Well J-17 level reaches **630** feet mean sea level (10 day rolling average) at the monitored well and is declared by the Edwards Aquifer Authority (EAA) and/or at the discretion of the Mayor of the City of Garden Ridge.

1. All restrictions in Stage 3.
2. Water customers subject to a 200% surcharge for use over 40,000 gallons.
3. The Mayor may establish interim restrictions until the City Council is able to meet to establish additional restrictions.

This does not apply to non-potable water, gray water, or treated effluent.

Stage 4 restrictions continue until there is an announcement that Stage 4 has been canceled or that Stage 5 is in effect.

#### **STAGE 5**

**Stage Five Alert** begins when the Edwards Aquifer Authority Test Well J-17 level reaches **625** feet mean sea level (10 day rolling average) at the monitored well and is declared by the Edwards Aquifer Authority (EAA) and/or at the discretion of the Mayor of the City of Garden Ridge.

1. All restrictions in Stage 4.
2. Conditions as directed by the Mayor and City Council.
3. Use Necessary for Public Health or Safety.
4. Notwithstanding any provision of these rules, groundwater may be used when and to the extent it is necessary to prevent danger to public health, safety, or welfare or to the extent required by State or Federal law.
6. Water customers subject to a 200% surcharge for use over 40,000 gallons.

This does not apply to non-potable water, gray water, or treated effluent.